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5 UNITED STATES DISTRICT COURT
6 NORTHERN DISTRICT OF CALIFORNIA
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8 DERRICK NATHANIEL,)
9 Plaintiff(s),) No. C04-5082 MMC (BZ)
10 v.) **ORDER SCHEDULING**
11 NEW UNITED MOTOR) **SETTLEMENT CONFERENCE**
12 MANUFACTURING, INC.,)
13 Defendant(s).)
14 _____)

15 The above matter was referred to Magistrate Judge Bernard
16 Zimmerman for settlement purposes.

17 You are hereby notified that a settlement conference is
18 scheduled for **Friday, January 6, 2006, at 9:00 a.m.**, in
19 Courtroom G, 15th Floor, Federal Building, 450 Golden Gate
20 Avenue, San Francisco, California 94102.

21 It is the responsibility of counsel to ensure that
22 whatever discovery is needed for all sides to evaluate the
23 case for settlement purposes is completed by the date of the
24 settlement conference. Counsel shall cooperate in providing
25 discovery informally and expeditiously.

26 Lead trial counsel shall appear at the Settlement
27 Conference with the parties. Any party who is not a natural
28 person shall be represented by the person or persons **not**

1 **directly involved** in the events which gave rise to the
2 litigation but with **full** authority to negotiate a settlement.
3 A person who needs to call another person not present before
4 accepting, rejecting or making any settlement offer does not
5 have full authority. If a party is a governmental entity, its
6 governing body shall designate one of its members or a senior
7 executive to appear at the Settlement Conference with
8 authority to participate in the Settlement Conference and, if
9 a tentative settlement agreement is reached, to recommend the
10 agreement to the governmental entity for its approval. An
11 insured party shall appear with a representative of the
12 carrier with full authority to negotiate up to the limits of
13 coverage. The Court shall be notified immediately if the
14 carrier declines to attend. Personal attendance of a party
15 representative will rarely be excused by the Court, and then
16 only upon separate written application demonstrating
17 substantial hardship served on opposing counsel and lodged as
18 early as the basis for the hardship is known.

19 Each party shall prepare a Settlement Conference
20 Statement, which must be served on opposing counsel and lodged
21 (not faxed) with my chambers no later than seven calendar days
22 prior to the conference. The Statement shall **not** be filed
23 with the Clerk of the Court. The Statement **may** be submitted
24 on CD-ROM with hypertext links to exhibits. Otherwise, the
25 portion of exhibits on which the party relies **shall** be
26 highlighted. The Settlement Conference Statement shall not
27 exceed ten pages of text and twenty pages of exhibits and
28 shall include the following:

- 1 1. A brief statement of the facts of the case.
- 2 2. A brief statement of the claims and defenses
- 3 including, but not limited to, statutory or other grounds upon
- 4 which the claims are founded.
- 5 3. A summary of the proceedings to date and any pending
- 6 motions.
- 7 4. An estimate of the cost and time to be expended for
- 8 further discovery, pretrial and trial.
- 9 5. For any party seeking relief, a description of the
- 10 relief sought, including an itemization of damages.
- 11 6. The parties' position on settlement, including
- 12 present demands and offers and a history of past settlement
- 13 discussions. The Court's time can best be used to assist the
- 14 parties in completing their negotiations, not in starting
- 15 them. Accordingly, plaintiff must serve a demand in writing
- 16 no later than fourteen days before the conference and
- 17 defendant must respond in writing no later than eight days
- 18 before the conference. If plaintiff seeks attorney's fees and
- 19 costs, plaintiff's counsel shall either include the fee claim
- 20 in the demand or make a separate, simultaneous demand for fees
- 21 and costs. Counsel shall be prepared at the conference to
- 22 provide sufficient information to defendant to enable the fee
- 23 claim to be evaluated for purposes of settlement. The parties
- 24 are urged to carefully evaluate their case before taking a
- 25 settlement position since extreme positions hinder the
- 26 settlement process.
- 27 Along with the Statement each party shall lodge with the
- 28 court a document of no more than three pages containing a

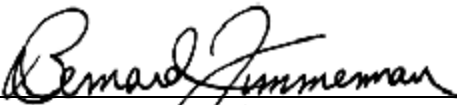
1 **candid** evaluation of the parties' likelihood of prevailing on
2 the claims and defenses, and any other information that party
3 wishes not to share with opposing counsel. The more candid
4 the parties are, the more productive the conference will be.
5 This document shall not be served on opposing counsel.

6 It is not unusual for conferences to last three or more
7 hours. Parties are encouraged to participate and frankly
8 discuss their case. Statements they make during the
9 conference will not be admissible at trial in the event the
10 case does not settle. The parties should be prepared to
11 discuss such issues as:

- 12 1. Their settlement objectives.
- 13 2. Any impediments to settlement they perceive.
- 14 3. Whether they have enough information to discuss
15 settlement. If not, what additional information is needed.
- 16 4. The possibility of a creative resolution of the
17 dispute.

18 The parties shall notify Magistrate Judge Zimmerman's
19 chambers immediately if this case settles prior to the date
20 set for settlement conference. Counsel shall provide a copy
21 of this order to each party who will participate in the
22 conference.

23 Dated: December 7, 2005

24 
25 _____
26 Bernard Zimmerman
27 United States Magistrate Judge
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